

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

MICHAEL KUTKIEWICZ and)	
CAROL HOWARD,)	
)	
Plaintiffs)	
)	
vs.)	CAUSE NO. 3:03-CV-683 RM
)	
ALVAN MOTOR FREIGHT, INC., and)	
BRUCE E. BOBER,)	
)	
Defendants)	

OPINION AND ORDER

The court has reviewed the plaintiffs' motion to reconsider. Essentially, they argue that because experts disagree about the scientific validity of a correlation between vehicle damage and personal injury, opposing counsel should be forbidden to argue to the jury, from photographs of the property damage, that injuries as severe as the plaintiffs claim could not have resulted from this collision.

The plaintiffs have submitted a persuasive argument for the admissibility of expert testimony on this issue under Federal Rule of Evidence 702 (assuming necessary compliance with Fed. R. Civ. P. 26), but have not persuaded the court of the necessity of expert testimony. The issue is analogous to expert testimony on the reliability of eyewitness identification testimony in criminal cases. While courts may disagree concerning the admissibility of expert testimony that eyewitness testimony is not reliable, see United States v. Crotteau, 218 F.3d 826,

833 (7th Cir. 2000); Cook v. State, 734 N.E.2d 563, 570-571 (Ind. 2000), no court has held that expert testimony is needed for an attorney to argue the persuasiveness of an eyewitness identification.

The court DENIES the plaintiffs' motion to reconsider the denial of their motion in limine regarding evidence attempting to establish a correlation between a low impact collision and plaintiffs' physical injuries [docket # 71].

SO ORDERED.

ENTERED: September 22, 2005

/s/ Robert L. Miller, Jr.
Chief Judge
United States District Court

cc: S. Langer, S. Pribyl
R. Keen, B. Ice